

**FENWICK & WEST LLP**

SAN FRANCISCO OFFICE | EMBARCADERO CENTER WEST
275 BATTERY ST., SUITE 1500 | SAN FRANCISCO, CA 94111
TEL 415.875.2300 | FAX 415.281.1350 | WWW.FENWICK.COM

RECEIVED
CENTRAL FAX CENTER

NOV 03 2003

FACSIMILE TRANSMISSION

CONFIDENTIAL

DATE: November 3, 2003

CLIENT-MATTER No.: 23540-07445

To:

NAME	FAX No.	PHONE No.
Chenyne D. Ly U.S. Patent and Trademark Office	703-308-4242	

FROM: Michael J. Shuster **PHONE:** (415) 875-2413

SENT BY: Cheryl Leger **PHONE:** (415) 875-2495

Re: U.S. Patent Application No. 09/955,663

NUMBER OF PAGES WITH COVER PAGE: 4	ORIGINAL WILL NOT FOLLOW
---	--------------------------

MESSAGE:

**In Re: U.S. Patent Application No. 09/955,663
RESPONSE TO RESTRICTION REQUIREMENT**

CAUTION - CONFIDENTIAL

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE OR THEIR DESIGNEE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPY OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

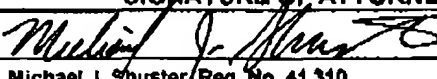
IF YOU DO NOT RECEIVE ALL OF THE PAGES, OR IF THEY ARE NOT CLEAR,
PLEASE CALL CHERYL LEGER AT (415) 875-2495 AS SOON AS POSSIBLE.

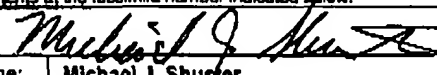
23540/07445/SF/5109699.1

PTO/SB/21 (modified)
Approved for use through xx/xx/xx, OMB 0651-0031
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

TRANSMITTAL FORM <i>(to be used for all correspondence during pendency of filed application)</i>	U.S. Department of Commerce Patent and Trademark Office	Application Number 09/955,663	
		Filing Date September 19, 2001	
		First Named Inventor David M. Rock, et al.	
		Group Art Unit Number 1631	
		Examiner Name Cheyne D. Ly	
Total Number of Pages in This Submission	3	Attorney Docket Number	23540-07445

ENCLOSURES (check all that apply)	
<input type="checkbox"/> Fee Transmittal Form (in duplicate) <input type="checkbox"/> Check Enclosed <input type="checkbox"/> Return Receipt Postcard <input type="checkbox"/> Response to Notice to File Missing Parts <input type="checkbox"/> Assignment & Recordation Cover Sheet <input type="checkbox"/> Declaration <input type="checkbox"/> Power of Attorney <input type="checkbox"/> Application Data Sheet <input type="checkbox"/> Information Disclosure Statement & PTO/SB/08A <input type="checkbox"/> Copies of IDS Cited References <input type="checkbox"/> Request for Corrected Filing Receipt <input type="checkbox"/> Request for Correction of Recorded Assignment <input type="checkbox"/> Amendment/Response: [] Page(s) <input type="checkbox"/> After Final <input type="checkbox"/> Status Request <input type="checkbox"/> Revocation and Substitute Power of Attorney	<input type="checkbox"/> Issue Fee Transmittal <input type="checkbox"/> Letter to Chief Draftsperson <input type="checkbox"/> Formal Drawing(s): [] Sheet(s) of Figure(s) [] <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group <i>(Appeal Notice, Brief, Reply Brief)</i> <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> After Allowance Communication to Group <input checked="" type="checkbox"/> Response to Restriction Requirement <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____
REMARKS:	

SIGNATURE OF ATTORNEY OR AGENT			
Signature:			
Attorney/Reg. No.:	Michael J. Shuster/Reg. No. 41,310	Dated:	Nov. 3, 2003

CERTIFICATE OF FACSIMILE TRANSMISSION			
I hereby certify that this correspondence, including the enclosures identified above, is being transmitted on the date shown below via facsimile to: Commissioner for Patents at the facsimile number indicated below.			
Signature:			
Typed or Printed Name:	Michael J. Shuster	Dated:	Nov. 3, 2003
Facsimile Number:	1-703-308-4242		

23540/07445/SF/5109695.1

RECEIVED
CENTRAL FAX CENTER

NOV 03 2003

IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

FIRST NAMED APPLICANT:	David M. Roche
APPLICATION NO.:	09/955,663
FILING DATE:	September 19, 2001
TITLE:	METHOD FOR DETERMINING MEASUREMENT ERROR FOR NUCLEIC ACID MICROARRAYS
EXAMINER:	C. Dune Ly
GROUP ART UNIT:	1631
ATTY. DKT. NO.:	23540-07445/US (PLEASE NOTE NEW DOCKET NUMBER)
CERTIFICATE OF MAILING/TRANSMISSION I hereby certify that this correspondence is being <input type="checkbox"/> deposited on the date shown below with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop xxxx, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450. <input checked="" type="checkbox"/> transmitted on the date shown below via facsimile to the attention of: Examiner Ly facsimile number 703-308-4242 Dated: <u>November 3, 2003</u> By: <u>Michael J. Shuster</u> Michael J. Shuster, Ph.D., Reg. No.: 41,310	

MAIL STOP NON FEE AMENDMENT
 COMMISSIONER FOR PATENTS
 P.O. BOX 1450
 ALEXANDRIA, VA 22313-1450

RESPONSE (37 C.F.R. § 1.111)

SIR:

Responsive to the Office Action dated October 2, 2003 received in the above-identified patent application, please enter the following species election. Because November 2, 2003 fell on a Sunday, this Response is timely filed.

Attorney Docket No.:23540-07445/US

Client Ref.:2001-072-2

Application No.:09/955,663

REMARKS

STATUS OF THE CLAIMS

Claims 1-14 are pending in this application.

ELECTION/RESTRICTION REQUIREMENT

Pursuant to the species election restriction requirement, applicant elects for prosecution on the merits the species of claim 8. Claims 9-12 are readable on this species, while claims 1-8 are generic. The species election is made without traverse.

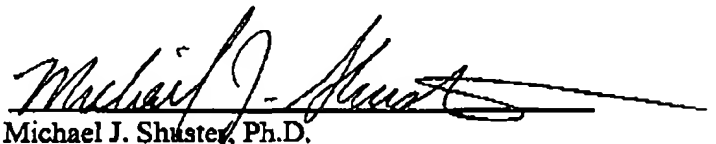
CONCLUSION

Reconsideration of the claims is respectfully requested, and a notice of allowance is earnestly solicited. If the Examiner has any questions concerning this Response, the Examiner is invited to telephone Applicants' representative at (415) 875-2413.

Respectfully submitted,
THE REGENTS OF THE UNIVERSITY OF
CALIFORNIA

Dated: November 3, 2003

By:



Michael J. Shuster, Ph.D.

Reg. No.: 41,310

Fenwick & West LLP

Silicon Valley Center

801 California Street

Mountain View, CA 94041

Tel.: (415) 875-2316

Fax.: (650) 938-5200